

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 ABEL ROBINSON,

10 Plaintiff,

11 v.

12 JACKSON, et al.,

Defendants.

CASE NO. 17-5794 RJB DWC

ORDER DECLINING TO ADOPT
REPORT AND
RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation of U.S.
14 Magistrate Judge David W. Christel. Dkt. 13. The Court has considered the Report and
15 Recommendation, objections, if any, and the remaining file.

16 Plaintiff, *pro se*, filed this civil rights case on October 2, 2017, asserting that his
17 constitutional rights were being violated due to the lack of adequate medical care at the Pierce
18 County, Washington Jail. Dkt. 1. Plaintiff moved for, and was granted, in forma pauperis status.
19 Dkts. 1 and 6.

20 On November 8, 2017, Plaintiff filed a pleading entitled “Motion to Voluntarily Dismiss
21 Complaint/Civil Suit with Jury Trial Demanded,” stating that “the issues have been
22 resolved/settled.” Dkt. 11. The Court notes that the handwriting and signature are very different
23 on this pleading than on Plaintiff’s other pleadings.
24

1 On November 15, 2017, Plaintiff filed a Second Amended Complaint, raising some of the
2 medical issues that were in his prior complaints. Dkt. 12. Before the Second Amended
3 Complaint was docketed, on November 17, 2017, the instant Report and Recommendation was
4 issued, recommending that the motion to voluntarily dismiss the case be granted and the matter
5 closed. Dkt. 13.

6 On December 7, 2017, Plaintiff filed a pleading indicating that he did not move to
7 dismiss the case. Dkt. 14. In the pleading, Plaintiff also inquires of the Clerk of the Court if he
8 would consider appointing him counsel. *Id.*

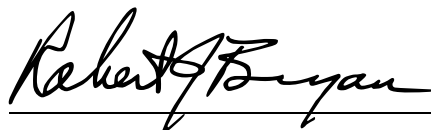
9 Plaintiff appears to be intending to proceed with this case. The Report and
10 Recommendation (Dkt. 13) should not be adopted. Plaintiff's motion to voluntarily dismiss
11 (Dkt. 11) should be denied without prejudice. The case should be re-referred to U.S. Magistrate
12 Judge David W. Christel for further proceedings.

13 It is **ORDERED** that:

- 14 • The Court **DECLINES to ADOPT** the Report and Recommendation (Dkt. 13);
- 15 • Plaintiff's "Motion to Voluntarily Dismiss Complaint/Civil Suit with Jury Trial
16 Demanded" (Dkt. 11) **IS DENIED WITHOUT PREJUDICE**;
- 17 • The case **IS RE-REFERRED** to U.S. Magistrate Judge David W. Christel for
18 further proceedings.

19 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
20 to any party appearing pro se at said party's last known address.

21 Dated this 11th day of December, 2017.

22 

23 ROBERT J. BRYAN
24 United States District Judge